

**Minutes of Meeting  
BOARD FOR CONTRACTORS  
INFORMAL FACT-FINDING CONFERENCES  
February 11, 2004 (1:30 p.m.)**

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Anthony Orange, Board member, presided. No other Board members were present.

Jennifer Kazzie appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc = Disciplinary Case  
RF = Recovery Fund Claim  
Trades = Tradesmen Application

C = Complainant/Claimant  
R = Respondent/Regulant  
W = Witness  
Atty = Attorney

Participants

1. William F. Maywalt  
t/a The Maywalt Group  
File Number 2003-03010 (Disc)
2. Mark D. Vaughn  
t/a Vaughn's Deck and More  
File Number 2003-01453(Disc)
3. Larry D. Lucas  
t/a Larry's Floors  
File Number 2003-00778 (Disc)
4. Richmond Mechanical Services Inc.  
File Number 2002-03771 (Disc)
5. Clarence Herz  
t/a First Call  
File Number 2003-00802 (Disc)

Maywalt – R  
John E. Griswold - Atty  
Ernest Jones – C  
Barbara J. Bennett – W  
Dr. Yolon Olson - W

Judy Hylton – C  
Dwayne Hylton - W

None

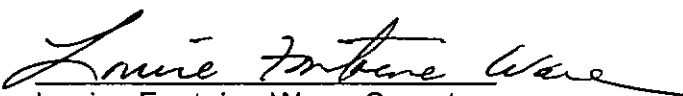
Joseph Hopcroft – R

None

The meeting adjourned at 4:00 p.m.

BOARD FOR CONTRACTORS

  
\_\_\_\_\_  
Mark D. Kinser, Chairman

  
\_\_\_\_\_  
Louise Fontaine Ware, Secretary

COPY TESTE:

\_\_\_\_\_  
Custodian of Records

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: WILLIAM F. MAYWALT  
T/A THE MAYWALT GROUP  
LICENSE NUMBER 2705 017093

FILE NUMBER: 2003-03010

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on February 11, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to William F. Maywalt, t/a The Maywalt Group, on October 24, 2003. The following individuals participated at the conference: William F. Maywalt, Respondent and John E. Griswold, Respondent's

Attorney; Ernest Jones, Complainant; Robert V. Cawthorne, Barbara J. Bennett and Dr. Yolon Olson, Witnesses; Jennifer Kazzie, Staff Member; and Anthony Orange, presiding Board Member.

### **Background**

On April 29, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Ernest Jones (Jones) regarding work performed by William F. Maywalt (Maywalt), t/a The Maywalt Group.

On June 27, 2002, Maywalt obtained building permit number 2002-443 to construct a new home at 27000 Greenhead Drive, Petersburg, Virginia. (NOTE: The permit address was later corrected to 26982 Greenhead Drive, Petersburg, Virginia.)

On September 1, 2002, Jones entered into a contract with Global Property Group LLC (Global), in the amount of \$139,500.00, to purchase a new home under construction at 27000 Greenhead Drive, Petersburg, Virginia.

On September 19, 2002, a Certificate of Occupancy was issued for the residence constructed by Maywalt at 26982 Greenhead Drive, Petersburg, Virginia.

### **Summation of Facts**

1. On May 6, 2003, a review of the licensing records of the Board for Contractors revealed Maywalt, t/a The Maywalt Group, was issued Class A Contractor's license number 2705017093 on October 28, 1992, as a sole proprietorship.
2. On July 28, 2003, records obtained from the State Corporation Commission indicated Global was a registered corporation at the time the work was performed. The records further indicated William F. Maywalt was the Registered Agent of Global.
3. The licensing records of the Board for Contractors revealed no license was issued for Global.
4. On August 30, 2002, Maywalt verbally agreed to "clear land 20' back behind well, straight across yard and remove well dirt, that the driveway humps would be removed and more gravel would be brought in to make driveway even with garage, also that professional landscapers were coming in to fix yard."
5. As of July 22, 2003, Maywalt planted grass, but failed to complete the other items as promised. Maywalt told Jones he would not complete the items because it was costing too much money.

6. During the IFF, Griswold testified that Global is an LLC that manages and sells rental property and is not a contracting company. Mr. Maywalt is the Registered Agent for Global, that held the title for property that was sold to Jones and which Maywalt built.

7. During the IFF, Maywalt testified that he did go out to the property on August 30, 2002, to discuss with Jones what area would be cleared, but that he did not verbally agree to clear more than the "Plans and Specifications" stated, which was that the yard would be graded and cleared 30' around the house. Maywalt also stated that at the time of the contract with the Jones', the construction of the house was 95 percent complete.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(18) (Effective Date September 1, 2001)

Based on the fact that Global is a property management company and not a contracting company, I recommend that Count 1 of the file be closed with a finding of no violation.

Count 2: 18 VAC 50-22-260(B)(6) (Effective Date September 1, 2001)

The contract specifically states the required clearance from the house was 30 foot in all directions, which was met. Therefore, I recommend that Count 2 of the file be closed with a finding of no violation.

By:

\_\_\_\_\_  
Anthony Orange  
Presiding IFF Board Member  
Board for Contractors

Date: \_\_\_\_\_

### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 017093 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

**BOARD FOR CONTRACTORS**

**RE: MARK D. VAUGHN T/A VAUGHN'S DECK AND MORE  
LICENSE NUMBER 2705 062049**

**FILE NUMBER: 2003-01453**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on February 11, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Mark D. Vaughn, t/a Vaughns Deck and More on October 30, 2003. The following individuals participated at the conference: Judy Hylton, Complainant; Dwayne Hylton, Witness; Jennifer Kazzie, Staff Member; and Anthony Orange, presiding Board Member. Neither Mark D. Vaughn, nor anyone on his behalf, attended the IFF.

**Background**

On November 20, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Judy Hylton ("Hylton") regarding a contract entered into with Hometown Remodelers and Mark Vaughn.

On July 8, 2002, Hylton entered into a contract with Hometown Remodelers, in the amount of \$13,538.00, for the installation of a new roof, gutters, exterior vinyl siding, windows, exterior deck and front porch steps and landing at 440 Liberty Via, Christiansburg, Virginia. The contract was signed for by Mark Vaughn.

On July 11, 2002, Hylton paid Mark Vaughn \$7,000.00 as the first installment on the contract. On July 31, 2002, Hylton paid Hometown Remodelers \$1,400.00. On August 5, 2002, Hylton paid Mark Vaughn \$2,450.00. On August 13, 2002, Hylton paid Mark Vaughn \$2,000.00.

On or about July 8, 2002, Vaughn commenced work. Between July 8, 2002, and August 17, 2002, Vaughn replaced the deck and steps. On or about August 17, 2002, Vaughn substantially completed the work.

On September 30, 2002, the Town of Christiansburg Building Official's office issued building permit number 664-B-02 to Vaughns Deck and More, Class C Contractor's license number 2705062049, for work performed at 440 Liberty Via, Christiansburg, Virginia.

A review of the licensing records of the Board for Contractors revealed Mark D. Vaughn ("Vaughn"), t/a Vaughns Deck and More, was issued Class C Contractor's license number 2705062049 on March 26, 2001, as a sole proprietorship.

### **Summation of Facts**

1. Vaughn failed to operate in the name in which the license was issued.
2. The contract used by Vaughn in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when work is to begin and an estimated completion date, (d) a statement that delays caused by such events do not constitute abandonment and are not included in calculating the time frame for payments or performance, (e) a statement of assurance that the contractor will comply with all requirements for building permits, inspections and zoning, (f) disclosure of the cancellation rights of the parties, and (h) the contractor's license number, expiration date, class of license and classification or specialty service.
3. James Bowman ("Bowman"), Building Official for the Town of Christiansburg, noted on building permit number 664-B-02 that "built before permit taken out." On March 20, 2003, Bowman advised Investigator Dale C. Amos, the Board's agent, that Vaughn failed to obtain a building permit prior to the commencement of work, in violation of Section 109.0 of the Virginia Uniform Statewide Building Code.
4. On August 17, 2002, Vaughn left the job and failed to return to complete the following items: securing the deck, repairing leaking gutters, and installing flashing on roof. Vaughn also failed to replace the front porch steps.
5. On or about August 18, 2002, Hylton observed that the front porch step risers were uneven and the deck was inadequately braced. Hylton also observed that the gutters leaked and the shingles were not installed in straight patterns.
6. On November 4, 2002, Charles McCauley ("McCauley"), P.E., Engineered Inspection Services, performed an inspection of remodeling work performed by Vaughn at 440 Liberty Via, Christiansburg, Virginia. In a report, McCauley noted the following:
  - The roofing material is in good (new) condition. The installation workmanship, however, was poor. The individual courses of shingles are not straight on the front or rear of the house.
  - The flashing is vulnerable and should be carefully monitored for leaks.
  - The drip edge flashing should be installed around the perimeter of the roof to ensure that water drains from the roof directly into the gutters.
  - Nail heads are exposed at the ridge vent. They should be sealed to reduce the risk of leaks.

- The gutters do not have sufficient slope to drain properly.
- The porch steps represent a tripping hazard. The problem is a result of inconsistent riser height on the steps, which occurred when brick pavers were installed over existing concrete steps.
- As there is a danger of falling, a railing should be provided for the porch.
- There are multiple cracks in the mortar joints, which usually indicate improperly mixed or proportioned mortar. In addition, some of the mortar joints were very wide (up to ¾") which is indicative of poor workmanship.
- The construction of the deck is low quality. The deck steps are a tripping hazard.
- The angles of the stringers (the boards which support the stair treads) were not cut at a proper angle corresponding to the contact angle with the concrete walk. The only contact point for a load-bearing surface is the rear base. Gaps exist under all of the stringers, which should have full bearing contact. As with the front steps, the deck steps have inconsistent riser heights.
- Metal joist hangers were used (typical for deck construction) however, insufficient (and in many cases – none) nails were present to fasten the joist hangers or the joists.

7. On November 4, 2002, Hylton hand-delivered a letter to Vaughn requesting Vaughn return to make repairs, including, but not limited to:

- Install steps at uniform height
- Correct shingles and install flashing
- Properly install gutters to drain water into downspouts and correct seams
- Repair HVAC electrical box.

Hylton also sent the letter via certified mail. Vaughn failed to respond to Hylton's request.

8. On November 14, 2002, Hylton sent Vaughn a second letter requesting Vaughn return to make the repairs. As of November 18, 2002, Vaughn failed to return to make the repairs.

9. On December 2, 2002, the Board's agent made a written request to Vaughn at the address of record of 620 Johnson Street, Christiansburg, Virginia 24073, requesting a written response and supporting documentation to the complaint filed with the Board. The Board's agent requested a response be received by December 17, 2002. On December 9, 2002, the letter was returned to the Board's agent by the United States Postal Service marked "not deliverable as addressed."

10. On December 16, 2002, the Board's agent made a second written request to Vaughn at the address on the complaint form of 961 ½ College Street, Christiansburg, Virginia 24073, requesting a written response and supporting documentation to the complaint filed with the Board. The Board's agent requested a response be received by December 31, 2002. On March 21, 2003, the letter was returned to the Board's agent by the United States Postal Service marked "moved left no address, unable to forward."

11. On February 14, 2003, the Board's agent made a second written request, via certified mail, to Vaughn at the address on the complaint form of 961 ½ College Street,

Christiansburg, Virginia 24073, requesting a written response and supporting documentation to the complaint filed with the Board. The Board's agent requested a response be received by February 27, 2003. On February 20, 2003, the letter was returned to the Board's agent by the United States Postal Service marked "other."

12. On March 9, 2003, the Board's agent visited 961 ½ College Street, Christiansburg, Virginia 24073. The Board's agent was unable to contact anyone at this address.

13. On March 20, 2003, a records check with directory assistance did not reveal a telephone listing for Mark Vaughn or Decks and More in the Christiansburg, Virginia area.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-230(A) (Effective September 1, 2001)

Vaughn's failure to operate in the name in which the license was issued is a violation of Board Regulation 18 VAC 50-22-230(A). Therefore, I recommend that a monetary penalty of \$2,500.00 be imposed for a violation of this regulation.

Count 2: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Vaughn's failure to contain the minimum provisions in the contract, as required by the Board's 2001 Regulations, is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$500.00 be imposed for a violation of this regulation.

Count 3: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Vaughn's failure to obtain a building permit prior to the commencement of work is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend that a monetary penalty of \$2,000.00 be imposed for a violation of this regulation.

Count 4: 18 VAC 50-22-260(B)(5) (Effective September 1, 2001)

Vaughn's failure to properly install the front porch step risers, the shingles and the gutters or to adequately brace the deck is negligence and/or incompetence in the practice of contracting, in violation of Board Regulation 18 VAC 50-22-260(B)(5). Therefore, I recommend that a monetary penalty of \$2,500.00 and revocation of his license be imposed for a violation of this regulation.

Count 5: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Vaughn's failure to complete work contracted for and/or to comply with the terms of the contract is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend that a monetary penalty of \$2,500.00 and revocation of his license be imposed for a violation of this regulation.



Count 6: 18 VAC 50-22-260(B)(13) (Effective September 1, 2001)

Vaughn's failure to respond to the Board's agent, seeking information in the investigation of a complaint filed with the Board, is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend that a monetary penalty of \$2,500.00 and revocation of his license be imposed for a violation of this regulation.

By:

\_\_\_\_\_  
Anthony Orange  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

**FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 062049 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
BOARD FOR CONTRACTORS**

**RE: LARRY D. LUCAS, SR.  
T/A LARRY'S FLOORS  
LICENSE NUMBER 2705 053115**

**FILE NUMBER: 2003-00778**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on February 11, 2004 at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Larry D. Lucas, Sr., t/a Larry's Floors, on October 24, 2003. The following individuals participated at the conference:

Jennifer Kazzie, Staff Member; and Anthony Orange, presiding Board Member. Neither Lucas, not anyone on his behalf, attended the IFF.

### **Background**

On September 9, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Diane Shilts ("Shilts") regarding a contract entered into with Larry Lucas ("Lucas"), t/a Larry's Floors.

On July 5, 2002, Shilts received a proposal from Lucas, in the amount of \$8,023.70, to install hardwood floors at 1316 Sundial Drive, Reston, Virginia. On August 5, 2002, Shilts accepted the proposal and signed the contract.

### **Summation of Facts**

1. On September 17, 2003, a review of the licensing records of the Board for Contractors revealed Lucas was issued Class C Contractor's license number 2705053115 on October 26, 1999.
2. Lucas failed to obtain a Class B license in order to perform work in excess of the \$7,500.00 limit of a Class C license.
3. The contract used by Lucas failed to include the following minimum provisions: (a) when the work is to begin and the estimated completion date, (e) a statement that the contractor will comply with all requirements for building permits, inspections and zoning, (f) cancellation rights of the parties, and (h) contractor's license number, expiration date and class of license.
4. On August 5, 2002, Shilts paid Lucas \$4,000.00 by check.
5. On August 8, 2002, Lucas pulled up the carpet but failed to do any additional work. Shilts made several attempts to contact Lucas to find out the status of when Lucas would return to complete the job. On August 27, 2002, Lucas told Shilts that the job would take five (5) days to complete. Lucas failed to return as promised.
6. On September 5, 2002, Shilts sent Lucas a certified letter requesting Lucas complete the work or return the \$4,000.00 deposit by September 27, 2002. As of April 15, 2003, Lucas failed to complete the work contracted for or return the money received for work not performed or performed in part.
7. On February 28, 2003, Investigator Morgan T. Moore, the Board's agent, made a written request to Lucas, via certified mail, at the address of record of 13125 Englishwood Lane, Fairfax, Virginia 22033, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received

by March 17, 2003. The letter was returned to the Board's agent by the United States Postal Service ("USPS") and was marked "unclaimed."

8. On March 21, 2003, the Board's agent made a second written request to Lucas, via First Class mail with deliver confirmation, at the address of record of 13125 Englishwood Lane, Fairfax, Virginia 22033, requesting a written response and supporting documents to the complaint filed with the Board. On March 22, 2003, the USPS attempted to deliver the letter and a notice was left. The letter was not returned to the Board's agent.

9. On April 15, 2003, in the General District Court of Fairfax County, Shilts was awarded a \$4,125.00 judgment against Lucas. As of May 5, 2003, Lucas failed to satisfy the judgment.

10. As of April 30, 2003, Lucas refused or failed to respond to the Board's agent.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(27) (Effective September 1, 2001)

Lucas' failure to obtain a Class B license in order to perform work in excess of the \$7,500.00 limit is a violation of Board Regulation 18 VAC 50-22-260(B)(27). Therefore, I recommend that a monetary penalty of \$1,500.00 be imposed for violation of this regulation.

Count 2: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Lucas' failure to contain the minimum provisions in the contract, as required by the Board's 2001 Regulations, is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed for a violation of this regulation.

Count 3: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Lucas' failure to complete work contracted for is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend that a monetary penalty of \$2,500.00 be imposed for a violation of this regulation.

Count 4: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Lucas' failure to return funds paid for which work either was not performed or performed only in part, is a violation of Board Regulation 18 VAC 50-22-260(B)(16). Therefore, I recommend that a monetary penalty of \$2,500.00 and revocation of his license be imposed for a violation of this regulation.

Count 5: 18 VAC 50-22-260(B)(28) (Effective September 1, 2001)

Lucas' failure to satisfy the judgment awarded to Shilts against Lucas on April 15, 2003, in the General District Court of Fairfax County, is a violation of Board Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend that a monetary penalty of \$2,500.00 and revocation of his license be imposed for a violation of this regulation.

Count 6: 18 VAC 50-22-260(B)(13) (Effective September 1, 2001)

Lucas' failure to respond to the Board's agent seeking information in the investigation of a complaint filed with the Board is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend that a monetary penalty of \$2,500.00 and revocation of his license be imposed for a violation of this regulation.

By:

\_\_\_\_\_  
Anthony Orange  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

**FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 053115 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

**BOARD FOR CONTRACTORS**

**RE: RICHMOND MECHANICAL SERVICES, INC.  
LICENSE NUMBER 2701 038196**

**FILE NUMBER: 2002-03771**

## **Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on February 11, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Richmond Mechanical Services, Inc. on October 23, 2003. The following individuals participated at the conference: R. Joseph Hopcroft, President of Richmond Mechanical Services, Respondent; Jennifer Kazzie, Staff Member; and Anthony Orange, presiding Board Member.

### **Background**

On October 25, 1999, Gary Mierenfeld (Mierenfeld) obtained the services of Richmond Mechanical Services Inc. (Richmond Mechanical) to perform installation of a gas line and installation of owner's logs in two fireplaces, in the amount of \$850.00, at 3607 Littlecroft Place, Midlothian, Virginia. On November 12, 1999, Mierenfeld received an invoice for the work performed

### **Summation of Facts**

1. Richmond Mechanical failed to provide Mierenfeld a legible written contract clearly specifying the terms and conditions of the work to be performed, prior to the commencement of work. Richmond Mechanical sent Mierenfeld an invoice dated November 12, 1999, approximately a week after the work was performed.
2. Hopcroft testified that Richmond Mechanical was a subcontractor for Hearth and Patio, installing gas log systems and that Richmond Mechanical did not typically use a contract for Hearth and Patio work. Hopcroft stated that Richmond Mechanical had previously performed work for Mierenfeld but did not have a written contract for this particular job. Richmond Mechanical presented a copy of its standard contract during the IFF.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Richmond Mechanical's failure to make use of a legible written contract, clearly specifying the terms and conditions of the work to be performed, is a violation of Board Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend that a monetary penalty of \$50.00 be imposed for a violation of this regulation.

By:

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Anthony Orange  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_

**FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2701 038196 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

**BOARD FOR CONTRACTORS**

**RE: CLARENCE A. HERZ  
T/A FIRST CALL  
LICENSE NUMBER 2705 058344**

**FILE NUMBER: 2003-00802**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on February 11, 2004 at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Clarence A. Herz on November

3, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Anthony Orange, presiding Board Member. Neither Herz, nor anyone on his behalf, attended the IFF.

### **Background**

On September 14, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Duane R. Adens ("Adens") regarding a contract entered into with Clarence A. Herz ("Herz"), t/a First Call.

On August 20, 2002, Adens entered into a contract with Herz, in the amount of \$3,525.00, for remodeling work at 1739 Powder Horn Terrace, Woodbridge, Virginia.

On August 21, 2002, Adens paid Herz \$2,100.00 by check. On August 29, 2002, Adens paid Herz \$1,000.00 by check. (NOTE: Adens put a stop payment on the second check.)

### **Summation of Facts**

1. The contract used by Herz failed to include the following minimum provisions: (a) when the work is to begin and the estimated completion date, (e) a statement that the contractor will comply with all requirements for building permits, inspections and zoning, (f) cancellation rights of the parties, and (h) the contractor's license number, expiration date and class of license.
2. On September 3, 2002, Adens received a job worksheet from First Call, Inc. regarding the work performed.
3. On September 26, 2002, in the General District Court of Prince William County, Richard Robinson was awarded a \$635.00 judgment against Herz. As of September 17, 2003, Herz failed to satisfy the judgment.
4. On December 12, 2002, in the General District Court of Prince William County, Potomac Hospital Corporation of Prince William was awarded a \$3,957.35 judgment against Herz. As of September 17, 2003, Herz failed to satisfy the judgment.
5. On January 14, 2003, in the General District Court of Prince William County, Adens was awarded a \$1,200.00 judgment against Herz. As of September 17, 2003, Herz failed to satisfy the judgment.
6. On June 9, 2003, the records of the State Corporation Commission revealed First Call Inc. became incorporated on February 28, 2002. The records further revealed First Call Inc. was not in good standing for failure to pay fees and to file annual reports as required by law.

7. On September 17, 2003, a review of the licensing records of the Board for Contractors revealed Clarence A Herz ("Herz"), t/a First Call, was issued Class C Contractor's license number 2705058344 on October 13, 2000, as a sole proprietorship.

8. Herz failed to operate in the name in which the license was issued.

### **Conclusion and Recommendation**

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Herz's failure to make use of a contract containing the minimum provisions required by the Board's 2001 Regulations, is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed for violation of this regulation.

Count 2: 18 VAC 50-22-260(A) (Effective September 1, 2001)

Herz's failure to operate in the name in which the license was issued is a violation of Board Regulation 18 VAC 50-22-260(A). Therefore, I recommend that a monetary penalty of \$2,500.00 and revocation of his license be imposed for a violation of this regulation.

Count 3: 18 VAC 50-22-260(B)(28) (Effective September 1, 2001)  
(THREE VIOLATIONS)

Herz's failure to satisfy judgments awarded against him on September 26, 2002, December 12, 2002, and January 14, 2003, by the General District Court of Prince William County, is in violation of Board Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend that a monetary penalty of \$2,000.00 be imposed for each violation of this regulation for a total penalty of \$6,000.00 and revocation of his license.

By:

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Anthony Orange  
Presiding IFF Board Member  
Board for Contractors  
Date: \_\_\_\_\_



### **FINAL ORDER RECOMMENDATION**

*THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 058344 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.*

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

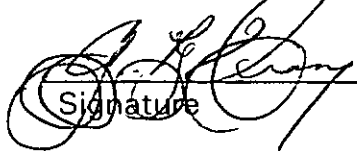
1. Name: Anthony Orange
2. Title: Board Member
3. Agency: Virginia Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on February 11, 2004
5. Nature of Personal Interest Affected by Transaction: N/A

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I.B.E.W. LOCAL UNION 666

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

  
Signature

2-11-04  
Date